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November 10, 2022

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street SE, Suite 100  
Post Office Box 1088  
Salem, Oregon 97308-1088

**Re: LC 79 – NW Natural’s 2022 Integrated Resource Plan – Motion for a Modified Protective Order**

Northwest Natural Gas Company, dba NW Natural, encloses for filing a motion for a modified protective order in the above-mentioned proceeding.

Please address correspondence on this matter to me with copies to the following:

eFiling  
Rates & Regulatory Affairs  
NW Natural  
250 SW Taylor Street  
Portland, Oregon 97204  
Phone: (503) 610-7330  
Fax: (503) 220-2579  
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If you have any questions, please contact me.

Sincerely,

*/s/ Eric W. Nelsen*

Eric W. Nelsen  
Senior Regulatory Attorney  
Northwest Natural Gas Company

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**LC 79**

In the Matter of  
  
NORTHWEST NATURAL GAS  
COMPANY, dba NW NATURAL  
  
2022 Integrated Resource Plan

**MOTION FOR MODIFIED  
PROTECTIVE ORDER**  
  
**Expedited Consideration  
Requested**

1 Pursuant to ORCP 36(C)(1), OAR 860-001-0080(3), and OAR 860-001-  
2 0420, Northwest Natural Gas Company, dba NW Natural (“NW Natural” or  
3 “Company”), moves the Public Utility Commission of Oregon (“Commission”) for  
4 the entry of a Modified Protective Order in this proceeding. For the reasons  
5 outlined below, good cause exists to issue a Modified Protective Order, in  
6 addition to the Commission’s General Protective Order, which the Company has  
7 requested and already received,<sup>1</sup> to provide additional protection to highly  
8 confidential, extremely commercially sensitive information related to the  
9 Company’s 2022 Integrated Resource Plan (“IRP”). The Company therefore  
10 requests that the Commission issue the proposed Modified Protective Order that  
11 is attached hereto as Attachment A.

**I. BACKGROUND**

12 On September 23, 2022, NW Natural filed its 2022 IRP in accordance with  
13 Order Nos. 07-002 and 07-047. Staff of the Commission (“Staff”) and Oregon  
14 Citizens’ Utility Board (“CUB”) are parties to this proceeding; The Green Energy  
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<sup>1</sup> In the Matter of Northwest Natural Gas Company, dba NW Natural, 2022 Integrated Resource Plan, Docket LC 79, Order No. 22-374 (entered October 17, 2022).

1 Institute at Lewis & Clark Law School, Climate Solutions, Columbia Riverkeeper,  
2 Community Energy Project, Electrify Now, Metro Climate Action Team, Natural  
3 Resources Defense Council, and Sierra Club (collectively, the “Coalition”) have  
4 filed a petition to intervene in this proceeding; and the Alliance of Western  
5 Energy Consumers (“AWEC”) has participated in the pre-process of this  
6 proceeding and may petition to intervene in this proceeding.

7 Staff has issued discovery requests (“DRs”) on the Company. On October  
8 13, 2022, Staff issued Request Nos. OPUC 013 - 022. LC 79 OPUC DR 13, 14,  
9 15 and 16, referencing Figures 6.13, 6.14 and 6.16 and Sections 6.4.6 and 6.4.8  
10 of the Company 2022 IRP, request detailed information about the Company’s  
11 renewable natural gas (“RNG”) opportunities. The requested detailed information  
12 includes, among other components, responses to requests for proposals, copies  
13 of related contracts, specification of key commercial pricing, volume and other  
14 terms, and forecast analyses conducted by the Company associated with its  
15 RNG opportunities. The Company’s responses to these DRs will contain  
16 information that NW Natural considers to be highly confidential, including price  
17 information and other terms and conditions that, if disclosed publicly, would place  
18 NW Natural at a material disadvantage in acquiring RNG in the future. The  
19 Company anticipates that Staff and other parties will issue additional DRs that  
20 request highly confidential information regarding the Company’s RNG  
21 opportunities.

22 For these reasons, the Company seeks additional protections for such  
23 information, beyond those contained in the Commission’s General Protective

1 Order. The goal of the proposed protections is to ensure that the parties  
2 receiving the Highly Confidential Information treat it with the utmost care, and to  
3 limit the forms of duplication and transmission of such information, in order to  
4 ensure that it does not fall into the possession of market competitors or the  
5 general public.

6 In accordance with OAR 860-001-0420, on November 8, 2022, NW  
7 Natural informed Staff, CUB, the Coalition and AWEC of the need for this motion  
8 for modified protective and that it would be filed shortly thereafter. Staff, CUB the  
9 Coalition and AWEC did not raise any objections to the Modified Protective  
10 Order.

## 11 II. REQUEST FOR ADDITIONAL PROTECTION

12 As required by OAR 860-001-0080(3)(a), NW Natural provides the  
13 following information:

### 14 A. Parties and Exact Nature of the Information Involved.

15 Staff and CUB are parties to this proceeding, the Coalition has filed a  
16 petition to intervene in this proceeding and AWEC has participated in the pre-  
17 process of this proceeding and may petition to intervene in this proceeding. The  
18 Highly Confidential Information is certain information, data and documentation  
19 regarding the Company's RNG opportunities. Such information requires  
20 additional protection beyond that included in the General Protective Order  
21 because disclosure would place NW Natural at a commercial disadvantage when  
22 negotiating future RNG acquisitions and other commercially sensitive  
23 arrangements. Specifically, if this information was disclosed, RNG market

1 participants would understand how much NW Natural is willing to pay for RNG,  
2 and what commercial terms and conditions the Company is willing to accept.

3         Additionally, further Highly Confidential Information may be requested by  
4 Staff and the parties in discovery during the course of this proceeding.

5 **B.     Legal Basis for the Claim that the Information is Protected under**  
6 **ORCP 36(C)(1).**

7         ORCP 36(C)(1) limits the disclosure of “trade secret[s] or other  
8 confidential research, development, or commercial information.” The Highly  
9 Confidential Information to be produced include non-public, commercially  
10 sensitive information within the scope of ORCP 36(C)(1). Public disclosure of the  
11 information would harm the Company’s competitive position because market  
12 participants and sellers and purchasers of RNG would gain an understanding of  
13 how much the Company is willing to pay for RNG, and what commercial terms  
14 and conditions the Company is willing to accept. This harm would ultimately flow  
15 through to customers in the form of higher costs and less advantageous terms  
16 and conditions of future RNG arrangements.

17 **C.     Exact Nature of the Relief Requested.**

18         The Company requests that the Commission enter the attached Modified  
19 Protective Order. Under the proposed Modified Protective Order, Highly  
20 Confidential Information is accorded additional protections by requiring that  
21 individuals who are not Commissioners, Commission Staff, CUB regulatory staff,  
22 or attorneys for a party, to demonstrate a legitimate, non-competitive need for a  
23 specific item of Highly Confidential Information before gaining access. Those

1 with only a general interest in the information will not be permitted to access it.  
2 The Commission has entered a modified protective order with similar restrictions  
3 in the past for the same type of RNG information, data and documentation in  
4 other dockets.<sup>2</sup>

5 The terms of the Modified Protective Order provide additional protections  
6 to Highly Confidential Information that are narrowly tailored and are intended to  
7 apply only to the Company's highly commercially sensitive business information.  
8 The Modified Protective Order requires that Highly Confidential Information be  
9 maintained in a manner distinct from non-confidential information.

10 **D. Specific Reasons Requested Relief is Necessary.**

11 The Modified Protective Order is necessary to prevent RNG market  
12 participants and the general public from gaining access to Highly Confidential  
13 Information describing the commercial terms and conditions of the Company's  
14 RNG opportunities, which would provide competitors with a significant advantage  
15 to NW Natural's financial detriment.

16 Granting the requested additional protection also will significantly limit the  
17 risk of an inadvertent breach of confidentiality, which could adversely affect NW  
18 Natural and its customers. The terms of the Modified Protective Order, described  
19 above, decrease the risk of disclosure by restricting the manner and means by

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<sup>2</sup> In the Matter of Northwest Natural Gas Company, dba, NW Natural, Request for Approval of an Affiliated Interest Agreement with Lexington Renewables, LLC, Docket UI 451, Order No. 22-056 (entered February 24, 2022); In the Matter of Northwest Natural Gas Company, dba, NW Natural, Application to Defer the Cost of Service Associated with the Tyson RNG Project, Docket UM 2145, Order No. 21-021 (entered January 22, 2021).

1 which Highly Confidential Information may be maintained, stored, and  
2 transmitted, thus reducing the risk of inadvertent disclosure.

3 **E. Intermediate Measures Explored and Why these are Insufficient.**

4 As explained above, it is necessary to limit access to highly confidential  
5 commercially sensitive information regarding NW Natural's acquisition of RNG  
6 because of the serious risk of harm associated with disclosure of the Highly  
7 Confidential Information. It is also consistent with how the Commission has  
8 treated the same type of these RNG opportunities in the past.<sup>3</sup> Furthermore,  
9 disclosure of confidential information under a General Protective Order is rare,  
10 however it does occur from time to time. Given such disclosures, additional  
11 protections, such as those contained in the proposed Modified Protective Order,  
12 are appropriate when the consequences of disclosure would be particularly  
13 grave. Intermediate measures are not available because Staff and the parties  
14 want to review information about the Company's RNG opportunities, which  
15 necessitates the disclosure of Highly Confidential Information.

16 **III. CONCLUSION**

17 For the foregoing reasons, NW Natural respectfully requests entry of the  
18 Modified Protective Order attached as Attachment A on an expedited basis so  
19 that it can promptly respond to Staff's data requests.

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<sup>3</sup> *Id.*

1 Respectfully submitted this 10<sup>th</sup> day of November 2022.

2 **NW NATURAL**

3 /s/ Eric W. Nelsen

4 Eric W. Nelsen, OSB# 192566

5 Senior Regulatory Attorney

6 Northwest Natural Gas Company

7 250 SW Taylor Street

8 Portland, Oregon 97204

9 Email: eric.nelsen@nwnatural.com

10 Phone: 503.610.7618



**Attachment A**

to

Motion for Modified Protective Order

in Docket LC 79

**MODIFIED PROTECTIVE ORDER**  
DOCKET LC 79

**Scope of this Order**

1. This order supplements the General Protective Order in this docket and governs the acquisition and use of “Highly Confidential Information” produced or used by any party in Docket LC 79 (“party”).

**Designation of Highly Confidential Information**

2. Any party may designate as Highly Confidential Information any information the party reasonably determines:
  - a. Falls within the scope of ORCP 36(C)(1) and the Commission’s rules governing protective orders;
  - b. Is not publicly available; and
  - c. Is not adequately protected by the General Protective Order.
3. To designate information as Highly Confidential Information, a party must place the following legend on the material:

HIGHLY CONFIDENTIAL INFORMATION  
SUBJECT TO MODIFIED PROTECTIVE ORDER NO. 22-\_\_

The party should make reasonable efforts to designate as Highly Confidential Information only the portions of the information that satisfy Paragraph 2 of this Modified Protective Order.

Additionally, each page of a document containing Highly Confidential Information that is provided to HC Qualified Persons under this Order (as defined in Paragraph 7) must be printed on GREEN paper, separately bound, and placed in a sealed envelope or other appropriate container which must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. \_\_\_\_\_ AND CONTAINS HIGHLY  
CONFIDENTIAL INFORMATION. THE INFORMATION MAY BE SHOWN ONLY TO HC  
QUALIFIED PERSONS AS DEFINED IN ORDER NO. \_\_\_\_\_.

Except as provided in Paragraph 12, no electronic distribution of Highly Confidential Information is permitted under this Order. Accordingly, Highly Confidential Information may not be sent via email or any other electronic form, except as specifically allowed in Paragraph 12. To the extent that Highly Confidential Information may need to be filed with the Administrative Hearings Division, such filing shall be accomplished consistent with the Commission’s pre-COVID hard copy filing procedures.

4. The designating party shall ensure that each page of all documents designated as containing Highly Confidential Information are separately identifiable so that HC Qualified Persons, as defined in Paragraph 7, may reference any page they may want to use as an exhibit to testimony or for other purposes in this case.
5. A party may designate as Highly Confidential Information any information that was previously not so designated and was previously provided to the other parties by giving written notice to the Commission and other parties of the new designation. Parties in possession of newly designated Highly Confidential Information must ensure that all copies of the previously undesignated information are annotated to bear the appropriate legend (above) and are accessible only to persons qualified under this Order.
6. A designating party must make reasonable efforts to ensure that information designated as Highly Confidential Information continues to warrant protection under this Order. If designated information no longer constitutes Highly Confidential Information, the designating party should make reasonable efforts to remove the designation and provide written notice to the Commission and other parties.

### **Highly Confidential Qualified Persons**

7. Only persons qualified to receive Highly Confidential Information in accordance with Paragraphs 8-10 below (“HC Qualified Persons”) may access Highly Confidential Information designated as such by another party under this Modified Protective Order.
8. Persons automatically bound by this Modified Protective Order and qualified to access Highly Confidential Information are:
  - a. Commission employees; and
  - b. Assistant Attorneys General assigned to represent the Commission.
9. Persons qualified to access Highly Confidential Information upon signing the Consent to be Bound section of Attachment B are:
  - a. Counsel for a party;
  - b. Any person employed directly by counsel of record; and
  - c. An employee of the Regulatory Division at the Oregon Citizen’s Utility Board.

A party must identify all these persons in section 2 of Attachment B when consenting to be bound by the Order and must update this list throughout the proceeding to ensure it accurately identifies HC Qualified Persons.

10. A party bound by the Modified Protective Order may seek to qualify other persons to access Highly Confidential Information by having those persons complete and sign Attachment C and submitting that information to the Commission and all parties. Within five business days of receiving a copy of Attachment C, the designating party must either provide the requested access to the Highly Confidential Information or file an objection under Paragraphs 17 and 18.

11. For each person bound under Paragraphs 9 and 10, counsel for the party sponsoring the person must file a signed copy of Attachment B or C, as applicable, with the Commission and deliver a copy to the designating party and all parties of record. Upon receipt of the signed Attachment, if there is no objection to the person to be qualified thereunder made under Paragraphs 17 and 18, then Highly Confidential Information must be made available to the person within five business days.

### **Access to Highly Confidential Information**

12. For any HC Qualified Persons that prefer to avoid possessing Highly Confidential Information, NW Natural will make the Highly Confidential Information available for viewing via a read-only database on Huddle (or its successor); in that case, the information will be marked "Highly Confidential" and uploaded to a file folder designated "highly confidential" in Huddle (or its successor). Alternatively, HC Qualified Persons may request to receive paper copies marked in accordance with Paragraph 3 and may be provided to HC Qualified Persons via hand delivery or U.S. First Class Mail or other traceable delivery service using an opaque envelope or wrapping. For Highly Confidential Information that is a working version of a model in Excel format, the designating party will make an encrypted version of the Excel spreadsheet available to HC Qualified Persons on a password-protected USB drive. HC Qualified Persons in possession of the USB drive must only use the USB drive and access the encrypted files on a business computer. HC Qualified Persons will only save any modified versions of the Highly Confidential Information on the password-protected USB drive, and the HC Qualified Persons must save modified versions of the Highly Confidential Information in an encrypted format. HC Qualified Persons must destroy or return the Highly Confidential Information to the designating party within 90 days after final resolution of this proceeding in accordance with Paragraph 16. Furthermore, HC Qualified Persons must store the USB drive in a locked room or cabinet dedicated to the storage of Highly Confidential Information when not in use.
13. The Commission's Administrative Hearings Division, Commission Staff, and other HC Qualified Persons must store Highly Confidential Information in a locked room or cabinet dedicated to the storage of Highly Confidential Information.
14. Without the written permission of the designating party, any person given access to Highly Confidential Information under this Order may not use or disclose such information for any purpose other than participation in this proceeding and only then under the terms of this Order.
15. Each party shall ensure that each page of all documents designated as containing Highly Confidential Information are separately identifiable and HC Qualified Persons shall follow the procedures outlined in Paragraph 4 to reference the Highly Confidential Information for use as an exhibit to testimony or for other purposes in this case. If the exhibit or testimony must be submitted to the Commission's Administrative Hearings Division, the designating party must also file a copy of the referenced document containing Highly Confidential Information with the Commission's Administrative Hearings Division, printed on GREEN paper, and appropriately labeled in accordance with Paragraph 3, which shall be transmitted in a sealed envelope as further described in Paragraph 12.
16. Any HC Qualified Person or other person retaining Highly Confidential Information at the conclusion of this proceeding must destroy or return the Highly Confidential Information

to the designating party within 90 days after final resolution of this proceeding unless the designating party consents in writing to that party's retention of the Highly Confidential Information. This paragraph does not apply to the Commission or its Staff to the extent necessary to comply with the Oregon Public Records Law.

### **Objection to Access to Highly Confidential Information**

17. All HC Qualified Persons have access to Highly Confidential Information, unless the designating party objects as provided in this paragraph. As soon as the designating party becomes aware of reasons to restrict access to a HC Qualified Person, the designating party must provide the HC Qualified Person and his or her counsel written notice stating the basis for the objection. The parties must promptly confer and attempt to resolve the dispute on an informal basis before requesting review by an Administrative Law Judge ("ALJ"). After receipt of the written notice of objection required by this paragraph, the specific Highly Confidential Information may not be disclosed to the HC Qualified Person until the issue is resolved.
18. If the parties are unable to resolve the matter informally, the designating party must file a written objection with the ALJ. The requesting party may file a response to the motion within 5 business days of service of such written objection. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of the last filing. Pending the ALJ's decision, the specific Highly Confidential Information may not be disclosed to the person subject to the objection.

### **Challenge to Designation of Highly Confidential Information**

19. A party may informally challenge any designation of Highly Confidential Information by notifying the designating party. If any party objects to such designation by letter or email, the designating party must provide a written response to the party within five business days that describes in detail why the information is appropriately designated as Highly Confidential Information under this Order; PROVIDED THAT such detail will not include the disclosure of Highly Confidential Information to any individuals who are not HC Qualified Persons. (Note that correspondence that reveals the substance of any information marked as Highly Confidential Information may not be transmitted electronically.) Once notified, the designating party bears the burden of showing that the challenged information is covered by the applicable definition in this Order. Any party may request that the ALJ hold a conference to help resolve disputes about proper designation, which shall include an in camera review of the challenged information.
20. If the dispute cannot be resolved informally, the challenging party may file a written objection with the ALJ. The objection filed with the ALJ must identify the information in dispute and include a certification that reasonable efforts to achieve an informal resolution have been unsuccessful.
21. Within five days of the objection, unless otherwise ordered by the ALJ, the designating party must either remove the Highly Confidential Information or file a written response identifying the factual and legal basis of how the challenged information is protected from disclosure under the Oregon Public Records Law, or under ORCP 36(C)(1). Broad allegations unsubstantiated by specific facts are not sufficient. To the extent that such written response contains information designated as Highly Confidential Information, review

of such information shall be performed in camera by the ALJ, with a redacted copy of such response provided to the objecting party.

22. The challenging party may file a written reply to any response within five business days of service of an objection. The designating party may file a sur-reply within three business days of service of a response. To the extent that such written sur-reply contains information designated as Highly Confidential Information, review of such information shall be performed in camera by the ALJ, with a redacted copy of such sur-reply to the objecting party. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of service of the last filing.

#### **Duration of Protection**

23. The Commission will preserve the designation of information protected as Highly Confidential Information indefinitely unless the Highly Confidential Information is no longer considered to be Highly Confidential Information. The Commission will notify the designating party at least two weeks prior to the release of Highly Confidential Information.

**ATTACHMENT B**  
**CONSENT TO BE BOUND – HIGHLY CONFIDENTIAL INFORMATION**  
DOCKET LC 79

**I. Consent to be Bound – Highly Confidential Information:**

The Modified Protective Order and this Attachment B govern the use of Highly Confidential Information in LC 79.

\_\_\_\_\_ (Party) agrees to be bound by the terms of the Modified Protective Order and certifies that it has an interest in LC 79 that is not adequately represented by other parties to the proceeding.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**II. Persons Qualified under Paragraph 9:**

I have read the Modified Protective Order and agree to be bound by its terms.

I certify that:

1. I will make hard copies only as needed for purposes of review and submission to the Commission and will not make or distribute electronic copies of Highly Confidential Information and will not transmit electronically documents that reveal the substance of Highly Confidential Information.
2. I agree to keep the information in a secure manner as required by Paragraph 13 and to destroy it at the conclusion of this proceeding as required by Paragraph 16.
3. I understand that ORS 756.990(2) allows the Commission to impose monetary sanctions if a party subject to the jurisdiction of the Commission violates an order of the Commission.
4. The party with which I am associated has a legitimate and non-competitive need for the Highly Confidential Information and not simply a general interest in the information.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_



**ATTACHMENT C**  
**QUALIFICATION OF OTHER PERSONS TO RECEIVE HIGHLY CONFIDENTIAL**  
**INFORMATION**  
DOCKET NO. LC 79

**I. Persons Seeking Qualification to receive Highly Confidential Information under Paragraph 10:**

I have read the Modified Protective Order and agree to be bound by its terms.

I certify that:

1. I will make hard copies only as needed for purposes of review and submission to the Commission and will not make or distribute electronic copies of Highly Confidential Information and will not transmit electronically documents that reveal the substance of Highly Confidential Information.
2. I agree to keep the information in a secure manner as required by Paragraph 13 and to destroy it at the conclusion of this proceeding as required by Paragraph 16.
3. I understand that ORS 756.990(2) allows the Commission to impose monetary sanctions if a party subject to the jurisdiction of the Commission violates an order of the Commission.
4. The party with which I am associated has a legitimate and non-competitive need for the Highly Confidential Information and not simply a general interest in the information.
5. I require access to the following specific Highly Confidential Information (describe with particularity) for the following reason(s) (attach pages if necessary):

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Job Title: \_\_\_\_\_

If not an employee of a party, describe practice and clients: